

E1 / E2 Visas

Treaty Traders and Treaty Investors

The Immigration and Nationality Act provides nonimmigrant visa status for a national of a country with which the United States maintains a treaty of commerce and navigation who is coming to the United States to carry on substantial trade, including trade in services or technology, principally between the United States and the treaty country, or to develop and direct the operations of an enterprise in which the national has invested, or is in the process of investing a substantial amount of capital.

Requirements: Treaty Trader

The applicant must be a national of a treaty country;

The trading firm for which the applicant is coming to the U. S. must have the nationality of the treaty country;

The international trade must be "substantial" in the sense that there is a sizable and continuing volume of trade;

The trade must be principally between the U.S. and the treaty country, which is defined to mean that more than 50 percent of the international trade involved must be between the U.S. and the country of the applicant's nationality;

Trade means the international exchange of goods, services, and technology. Title of the trade items must pass from one party to the other; and

The applicant must be employed in a supervisory or executive capacity, or possess highly specialized skills essential to the efficient operation of the firm. Ordinary skilled or unskilled workers do not qualify.

Requirements: Treaty Investor

The investor, either a real or corporate person, must be a national of a treaty country;

The investment must be substantial. It must be sufficient to ensure the successful operation of the enterprise. The percentage of investment for a low-cost business enterprise must be higher than the percentage of investment in a high-cost enterprise;

The investment must be a real operating enterprise. Speculative or idle investment does not qualify. Uncommitted funds in a bank account or similar security are not considered an investment;

The investment may not be marginal. It must generate significantly more income than just to provide a living to the investor and family, or it must have a significant economic impact in the United States;

The investor must have control of the funds, and the investment must be at risk in the commercial sense. Loans secured with the assets of the investment enterprise are not allowed; and

The investor must be coming to the U.S. to develop and direct the enterprise. If the applicant is not the principal investor, he or she must be employed in a

supervisory, executive, or highly specialized skill capacity. Ordinary skilled and unskilled workers do not qualify.

Visa Ineligibility / Waiver

The nonimmigrant visa application Form DS-156 lists classes of persons who are ineligible under U.S. law to receive visas. In some instances an applicant who is ineligible for a tourist visa, but who is otherwise properly classifiable as a treaty trader or treaty investor, may apply for a waiver of ineligibility and be issued a visa if the waiver request is approved.

Applying for the Visa

Procedure

1. You must send or deliver the documentation personally in a package addressed to the attention of :

Sección de Visas (NIV) - Visas E
Consulado Americano Hermosillo
Monterrey #141
Col. Esqueda C.P.83000

Hermosillo, Sonora, México

2. Request a delivery receipt:

hermoE@state.gov

Tel. +52-662-289-3500 (Visa Section)

3. Ask for an appointment (*only after confirm the delivery*)

With the purpose of improving the service, we have put in practice a system of appointments. We counted on a telephone service to provide information on visas and to arrange an appointment. The call must become from a particular line, that are not of offices, businesses, cellular or houses nor public telephones. From

From México:

01 900 849 49 49 (\$12 pesos charged to your telephone bill)

01 477 788 70 70 (\$57.50 pesos charged to your credit card Visa or MasterCard plus long distance fee)

From USA:

1 900 476 1212 (\$1.25 usd per minute charged to your telephone bill)

1 800 919 1754 (\$7.00 usd per call charged to your credit card Visa or MasterCard)

011 52 477 788 7070 (\$57.50 pesos charged to your credit card Visa or MasterCard plus long distance fee)

NOTE:

Principal applicant and dependents must show to the interview (except minors Under the age of 7).

For minors Under 7 years old must bring a photograph 5 x 5 cm., color, front view, white background, dark or color clothes.

Documents required:

All applicants (no exceptions) must pay \$131.00 usd interview fee at Banamex bank.

- [DS-160](#) (All applicants).
- Marriage Certificate and sibling birth certificates.
- Applicants will have to send a package with documents of business as themselves: Tax declaration, company certificate of incorporation, business plans, bank accounts, photos of the company, etc., as well as a resume or narrative that explain how it is described for this type of visa.

Family Members

Spouses and unmarried children under 21 years of age, regardless of nationality, may receive derivative E visas in order to accompany the principal alien. Dependents are not authorized to work in the United States.

Holders of E visas may reside in the United States as long as they continue to maintain their status with the enterprise.

E visa has a cost of \$100.00 usd per year authorized.

Further Inquiries

hermoE@state.gov

E-3 Visas

Australian in Specialty Occupation

The E-3 is a new visa for Australian nationals to work in specialty occupations in the U.S. It has many advantages over the other types of working visas, including the ability for spouses of E-3 recipients to apply for work authorization.

Frequently Asked Questions

What is an E-3 Visa?

The E-3 is a new visa category only for Australians going to the U.S. to work temporarily in a specialty occupation.

Who qualifies for the E-3 visa?

The new E-3 visa classification currently applies only to nationals of Australia as well as their spouses and children. E-3 principal applicants must be going to the United States solely to work in a specialty occupation. The spouse and children need not be Australian citizens. However the U.S. does not recognize De Facto relationships or same-sex Civil Partnerships for the purposes of immigration, and to qualify as a spouse you will need a marriage certificate from the Department of Births, Deaths and Marriages.

I am a permanent resident of Australia but don't have citizenship. Can I apply for an E-3 visa?

No. E-3 visas are only available for Australian nationals. If you are a new Australian citizen or are in the process of becoming one, please note that you will need to possess an Australian passport by the time of your visa interview.

Is there an upper age limit for applicants?

No, there is no upper age limit.

Do I have to find a job in the U.S. first before applying for an E-3 visa?

Yes. You need to have a job offer from the U.S. before you can apply for the E-3 visa.

Can I go to the U.S. to find a job and then apply for the E-3 visa from there?

No. You cannot apply for an E-3 visa from within the U.S.

Can I travel to the U.S. on the Visa Waiver Program to find a job or attend interviews and then apply for the E-3 visa once I return to Australia?

Yes, you can travel on the Visa Waiver Program (VWP) if you meet the requirements (please see our page on the [Visa Waiver Program](#)). If you do not

meet the VWP requirements, you may be eligible to travel on the [B-1/B-2 Combined Visa for Business or Pleasure](#).

You must leave the U.S. before applying for your E-3 visa.

Can I apply for an E-3 visa from outside Australia?

Yes. You can apply at any U.S. Embassy or Consulate which processes nonimmigrant petition-based visas, but you cannot apply from within the U.S.

A list of U.S. Embassies and Consulates worldwide can be found on usembassy.state.gov.

A guide to interview wait times and visa processing times worldwide can be found on travel.state.gov.

However, please contact the U.S. Consulate or Embassy where you plan to apply to check that they accept applications from non-residents, and for details of how to book an interview and current processing times, as these will vary from post to post.

I apply at any U.S. Consulate in Australia?

Yes. You may apply in Sydney, Melbourne, or Perth

What is a specialty occupation?

The definition of "specialty occupation" is one that requires:

1. A theoretical and practical application of a body of specialized knowledge; and
2. The attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

In determining whether an occupation qualifies as a "specialty occupation," follow the definition contained in the Immigration and Nationality Act (INA) 214 (i)(1) for H-1B non-immigrants and applicable standards and criteria determined by the Department of Homeland Security (DHS) and United States Citizenship and Immigration Service (USCIS). Please see www.uscis.gov.

Although there is no definitive list of occupations eligible for the E3 visa, a useful general guide for applicants to check if their occupation might be considered a graduate specialty profession and thus might be eligible for an E3 visa, is the Occupational Information Network website [O*NET Online](#).

I have a degree and have found a job in a related profession in the U.S. Do I qualify for the E-3 visa?

Only if the job you plan to work in actually requires a minimum of a bachelor's degree in a specialty occupation. It is not enough that an E-3 applicant holds a particular degree; the job itself must also require a bachelor-level or higher qualification. For example, someone with a degree in Business Studies planning to work as a Personal Assistant would not be eligible for the E-3 unless the job actually required a bachelor-level qualification.

I am a skilled tradesperson with qualifications and experience in plumbing/electrical work/carpentry for example. Do these kind of trades qualify as specialty occupations for the E-3 visa?

Not generally, because a requirement of the E-3 visa is that the job in the U.S. requires a minimum of a bachelor's degree in a specialty occupation. As very few trade positions require a degree, they are not appropriate for E-3 visa employment.

Do I need a license for a specialty occupation?

An E-3 alien must meet academic and occupational requirements, including licensure where appropriate, for admission into the United States in a specialty occupation. If the job requires licensure or other official permission to perform the specialty occupation, the applicant must submit proof of the requisite license or permission before the E-3 visa may be granted. In certain cases where such a license or other official permission is not immediately required to perform the duties described in the visa application, the alien must show that he or she will obtain such licensure within a reasonable period of time following admission to the United States.

Do I need a petition by my employer to the Department of Homeland Security (DHS)?

No, the United States-based employer of an E-3 principal is not required to submit a petition to the Department of Homeland Security as a prerequisite for visa issuance. However, the employer must obtain a Labor Condition Application (LCA), ETA Form 9035 or ETA Form 9035E, from the Department of Labor.

How long is the visa valid?

The validity of the visa should not exceed the validity period of the LCA. The Department of State and DHS have agreed to a 24-month maximum validity period for E-3 visas. This validity may be renewed.

What is the fee for an E-3 visa?

Other than the normal non-refundable worldwide visa application fee of US\$100, there is no special fee for an E-3 visa.

Is there a limit to the number of E-3 visas?

Yes, there will be a maximum of 10,500 E-3 visas issued annually during each fiscal year, which runs from October 1st to September 30. We will advise on the website when the quota has been reached, it has not yet been reached for the U.S. fiscal year ending 30 September 2007. Spouses and children of applicants do not count against the quota, neither do applicants extending their E3 visas whilst still in the U.S. and working for the same employer.

Do applicants need to demonstrate a "residence abroad?"

E-3 status provides for entry on a non-permanent basis into the United States. Similar to E-1 and E-2 visa applicants, the E-3 must satisfy the consular officer that s/he intends to depart upon termination of status.

How do I demonstrate that I qualify for an E-3D (dependent) visa?

You must demonstrate to the consular officer that the established relationship exists. Usually this can be accomplished with a marriage certificate for spouses or a birth certificate for dependent children. Please note that the U.S. does not recognize De Facto relationships or same-sex Civil Partnerships, and to qualify as a spouse you will need a marriage certificate from the Department of Births, Deaths and Marriages. You must also show that the principal applicant is the recipient of an E-3 visa.

What is the process to apply for an E-3D (dependent) visa?

The dependent must make a separate visa application, which involves most of the same steps as the principal applicant's application, namely completing the required forms, paying the application fee, and scheduling a visa interview with a U.S. consular officer.

The dependent does not need to provide the principal applicant's Labor Condition Application (LCA) or evidence of employment, but needs to show that the principal applicant is the recipient of an E-3 visa by providing a copy of the visa or, if the applicant has obtained E-3 status in the U.S., the I-797 Approval Notice. The dependent can apply and arrange a visa interview at the same time as the principal applicant, or can apply and be interviewed later, once the principal applicant's E-3 visa is issued. The principal applicant does not need to be present at the dependent's interview. Each dependent must make a separate visa application, but children under 14 who are Australian citizens or permanent residents of Australia are not usually required to attend an interview.

May spouses work?

E-3 spouses are entitled to work in the United States and may apply for an Employment Authorization Document (Form I-765) through U.S. Citizenship and Immigration Service (USCIS). The spouse of a qualified E nonimmigrant may, upon admission to the United States, apply with the Department of Homeland Security for an employment authorization document, which an employer could use to verify the spouse's employment eligibility. Such spousal employment may be in a position other than a specialty occupation. Please note however that the U.S. does not recognize De Facto relationships or same-sex Civil Partnerships for the purposes of immigration, and to qualify as a spouse you will need a marriage certificate from the Department of Births, Deaths and Marriages.

How long is the E-3 visa valid?

The validity of the visa should not exceed the validity period of the LCA. The Department and DHS have agreed to a 24-month maximum validity period for E-3 visas.

If I get an E-3 visa, how long before I start my job can I enter the U.S.?

You can enter the U.S. 10 days before you start your job.

How long can I stay in the U.S. after I finish my job?

You can stay 10 days after you finish your job.

Can I travel outside the U.S. while on my E-3 visa?

An E-3 visa is a multiple-entry visa, so provided you have not changed employers or made any other changes to your immigration status, you may travel outside the U.S. and reenter on a valid, unexpired E-3 visa.

If you change your employer while you are outside the U.S., you will need to obtain a new E-3 visa at a U.S. Embassy or Consulate overseas. You can apply for a new E-3 visa at most [U.S. Embassies or Consulates worldwide](#).

A guide to [wait times for interviews and visa processing times](#) at all posts worldwide.

Please contact the U.S. Consulate or Embassy where you plan to apply to confirm that they accept applications from non-residents, and for details of how to book an interview and current processing times, as these will vary from post to post. You will need to have a visa interview, complete a new DS-156 application form, pay a new application fee and present the same supporting documents as you did for your original application (including your job offer, LCA, and educational certificates).

If you are visiting Australia and plan to apply for your new E-3 visa there, please see details of [how to apply](#).

How long can I stay out of the U.S. if I have an E-3 visa?

There is no limit to how long you can stay outside the U.S. or how many times you can travel outside the U.S. during the validity of your E-3 visa.

Can I renew the E-3 visa? Is there a limit to the amount of times I can renew?

E-3 applicants are admitted for a two-year period renewable indefinitely, provided the alien is able to demonstrate that he/she does not intend to remain or work permanently in the U.S.

Can I change employers once I am in the U.S. and stay on the E-3 visa?

Yes, your new employer must lodge a new Labor Condition Application (LCA), and the gap between jobs must be 10 days or less.

I am already in the U.S. on an E-3 visa and want to change employers. Do I need to come back to Australia for another interview?

You do not need to have another interview or make a new visa application to change employers while you are in the U.S. on an E-3 visa. However, you must complete a transfer process through the U.S. Citizenship & Immigration Service (USCIS) in the U.S.

Please direct any inquiries about the transfer process to USCIS, as once you are in the U.S. you are responsible for maintaining the correct immigration status with USCIS. Please see USCIS's website at www.uscis.gov or contact their National Customer Service Center (NCSC) at 1-800-375-5283.

I am already in the U.S. on a different category of visa and want to change to an E-3 visa. What should I do?

Please direct any inquiries to the U.S. Citizenship & Immigration Service (USCIS), as once you are in the U.S. you are responsible for maintaining the correct immigration status with USCIS. Please see their website at www.uscis.gov or contact USCIS's National Customer Service Center (NCSC) at 1-800-375-5283.

How do I apply for an E-3 visa?

You may make your appointment for an interview as soon as you have all the documents prepared. You do not need to send your documents in advance, just take them to the interview. There is no specific application form, applicants for all nonimmigrant visas must complete the same standard application form known as the DS-156.

If applying in Australia please see our website for further details, and for links to the online visa appointment website Visapoint, and to the DS-156 application form, see our page on [how to apply](#).

If applying outside Australia, please find a list of [U.S. Consulates and Embassies overseas](#).

A guide to [wait times for interviews and visa processing times](#) at all posts worldwide.

How long does it take to apply?

The wait times for interview at each Consulate vary, you can check the latest timeframe for interviews in Australia on the Visapoint website whilst making an appointment.

If applying outside Australia, please see the FAQ above for a link to interview wait times and processing times worldwide.

What requirements and documentary evidence are needed for the application?

Submit a job offer letter from the prospective United States-based employer. A treaty alien (i.e. the Australian applicant) in a specialty occupation must meet the general academic and occupational requirements for the position pursuant to Immigration and Nationality Act (INA) 214(i)(1) (please see www.uscis.gov).

In addition to the Electronic Visa Application Form (EVAF) DS-156, completed online (<http://evisaforms.state.gov/>) and printed out, and, for male applicants aged between 16-45, [Supplemental Application Form DS-157](#), the following documentary evidence must be submitted for an application for an E-3 visa:

1. Form ETA 9035, clearly annotated as "E-3 - Australia - to be processed," or an ETA 9035E dated after January 4th, 2006, specified for E-3 Australia. Now either form is acceptable. This is the notification of an approved Labor Condition Application (LCA) that the U.S. employer obtains from the Department of Labor. You cannot book an interview appointment until you have received this form.
2. Evidence of academic or other qualifying credentials as required under Immigration and Nationality Act (INA) 214(i)(1) (see weblink above), and a job offer letter or other documentation from the employer establishing that upon entry into the United States the applicant will be engaged in qualifying

work in a specialty occupation and that the alien will be paid the actual or prevailing wage referred to in INA 212(t)(1) (www.uscis.gov)

If your degree and higher-level qualifications are from an Australian institution, you do not usually need to provide certified copies or evidence of their U.S. equivalent, but please bring to your visa interview the original certificates, and if possible, transcripts for the course of study. If your qualification(s) are not from an Australian institution, a certified copy of the foreign degree and evidence that it is equivalent to the required U.S. degree could be used to satisfy the “qualifying credentials” requirement, but you may prefer to wait until your visa interview to confirm whether this is necessary. You should take your original certificates and transcripts to your visa interview, and if it is also necessary to produce certified copies of certificates and evidence of U.S. equivalence, you can send these to the Consulate after the interview, although your visa will not be approved until this is received. Likewise, a certified copy of a U.S. baccalaureate or higher degree, as required by the specialty occupation, would meet the minimum evidentiary standard.

3. In the absence of an academic or other qualifying credential(s), evidence of education and experience that is equivalent to the required U.S. degree.
4. Evidence establishing that the applicant’s stay in the United States will be temporary.
5. A certified copy of any required license or other official permission to practice the occupation in the state of intended employment if so required or, where licensure is not necessary to commence immediately the intended specialty occupation employment upon admission, evidence that the alien will be obtaining the required license within a reasonable time after admission.
6. Evidence of payment of the Machine Readable Visa (MRV) Fee, also known as the application fee. This is payable at Australia Post, and applicants should bring the post office receipt to the interview as evidence of payment.

Further Inquiries

hermoTN@state.gov